

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
GROUP ART UNIT 1753**

EXAMINER: Edna Wong
APPELLANT: Paskalov et al.
SERIAL NO: 10/698,867
FILED: 10/30/2003
FOR: High Energy Disinfection of Waste

Commissioner of Patents and Trademarks
Washington, D.C. 20231
Attention: Board of Patent Appeals and Interferences

APPELLANT'S REPLY BRIEF UNDER 37 CFR §41.41

This reply brief is file in response to the Supplemental Examiner's Answer filed July 6, 2009. The Applicant respectfully requests that the appeal filed October 29, 2007 be maintained under 37 CFR 41.41.

Response to Argument

A. Rejection of Claims 12-20 Under 35 U.S.C. 112, First Paragraph as Failing to Comply with the Written Description Requirement

The Examiner argues that the phrase "without subjecting the waste directly to the plasma" has no clear support and would not be understood by a person of ordinary skill in the art reading the description. The Appellant respectfully disagrees.

Figure 1 and the corresponding text on P4/L22-P5/L27 of the Appellant's specification describes how the fluid waste flows into a substantially water-tight conduit where the waste is carried past the waves of an RF plasma generator. The incorporated patent application serial no. 10/432208 ("the '208 application) also expressly teaches an RF plasma generator with a quartz tube closed reactor. (See '208 Specification, para [0019], lines 1-5) Clearly, the limitation "without subjecting the waste directly to the plasma" is supported by the teaching that fluid waste is carried past waves of an RF plasma generator that could be a closed reactor.

The Examiner also appears to be ignoring the evidence that the parent application expressly teaches a closed reactor with low pressure on the basis that limitations are not read into the claims without a proper claim basis. However, the Appellant is not trying to import

limitations from the specification into the claims. The Appellant respectfully offers those teachings in order to illustrate that the specification reasonably conveyed to one of ordinary skill in the art that the inventor had possession of the claimed invention as of the filing date, and to illustrate that the limitation "without subjecting the waste directly to plasma" was clearly supported by the description.

B. Rejection of Claims 15-17 and 20 Under 35 U.S.C. §112, Second Paragraph

The Examiner argues that the limitation "treating the waste at a rate of at least 20 l/hr" would have read on subjecting the waste directly to plasma generated by the RF plasma wave generator, and would have been open and endless. The Appellant respectfully disagrees. The limitation "treating the waste at a rate of at least 20 l hr" limits the claim to any method that treats the waste of at least 20 l/hr and also makes no mention to how the waste is applied.

C. Rejection of Claims 12-14 Under 35 U.S.C. §102(b)

The Examiner argues that Figure 1 of Laroussi shows a particulate shaded region representing plasma irradiation that fails to enter container 5. The Appellant respectfully disagrees. Any person of ordinary skill in the art would recognize that the particulate shaded region is plasma that enters container 5 and touches the liquid waste represented by waves within container 5.

CONCLUSION

The pending claims are all allowable as written. The limitations have clear support in the specification and would be understood by one skilled in the art when reading the claim in light of the specification. The rejections should be over-ruled.

Respectfully submitted,

Date: August 21, 2009

/Robert D. Fish/
Robert D. Fish
Reg. No. 33,880
Attorney for Appellant

Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614-6232
tel: 949-253-0944
fax: 949-253-9069
email: rfish@fishiplaw.com